



# **The Wyoming SAGE Initiative**

## **Draft Complaint – Grievance Policy**

**August 28, 2008**

## I. POLICY

It is the policy of SAGE that any party or enrollee or his/her representative who is dissatisfied with a policy, procedure, benefit, care or service has a right to seek resolution through the SAGE complaint/grievance process. The policy follows guidelines established by the Department of Health W.S. 25-10-120 – Patient Bill of Rights: Administrative Policies and Procedures (*see Attachment 9*)

The purpose of this SAGE Complaint/Grievance Policy and Procedure is to provide a timely means to resolve complaints and grievances, to educate enrollees or representatives about appropriate use of SAGE and to use enrollee / provider suggestions to improve SAGE.

***Note: An enrollee/family must not face any negative reproach if they initiate an informal or formal complaint/grievance.***

## II. PROCEDURE

Enrollees are provided with a Family Handbook that outlines SAGE’s complaint/grievance procedure. Enrollees / providers are requested to submit complaints to the SAGE Program Director.

For the purpose of definition, the following applies:

**Complaint:** Any party’s dissatisfaction with any aspect of service provision, lack of service provision, policy and procedure or benefit that is expressed verbally or in writing.

**Grievance:** Any enrollee’s (youth or family member’s) written dissatisfaction with the outcome of a complaint. The Grievance process is a formal procedure with specific date, time and procedural requirements.

### A. Procedure Regarding Complaints.

1. All parties are encouraged to initially attempt to resolve conflicts or concerns in an “informal” manner. This means initiating a discussion with the individual(s) with whom the conflict or concern has arisen. A Child & Family Team meeting should be held if necessary and appropriate. Efforts should be taken to come to a resolution prior to the complaint/formal grievance process being initiated.

***Note: The complainant has the right to file a complaint at any time if he/she believes resolution cannot be achieved through the “informal” process.***

2. Complainants may call the SAGE Program Director at (307) 777-2962 to make an inquiry or report a complaint or they may complete a COMPLAINT/SUGGESTION FORM (*see Attachment 1*) and submit it to the SAGE Program Director. Complaints should be filed within 45 days of the time one becomes aware of the concern. Extensions of this suggested time frame may be granted.
3. Upon receiving the complaint, the SAGE Program Director or their designee will review the information and complete the investigation or forward the complaint to an identified investigator.
4. All attempts will be made to initially respond to the complainant within 10 working days with a final response or report to be completed within 30 days from the date the complaint was received. If the complaint is identified as “critical” in nature, then all efforts will be made to initially respond and resolve the issues within 2 working days or sooner, if possible.

5. When the Complaint process results in a decision adverse to an enrollee (youth or family), the enrollee will be advised of their right to submit a written Grievance to the SAGE Program Director. A written Grievance may be submitted in any form. However, it is suggested that the SAGE GRIEVANCE INITIATION form be used and information relevant to the situation be submitted along with the Grievance (*see Attachment 2 - Form A*).

**B. Procedure for Formal Written Grievances.**

1. When a written grievance is received at SAGE, the letter will be date-stamped then logged onto the GRIEVANCE RECORD. (*See Attachment 3 - Form A-1.*) A written GRIEVANCE ACKNOWLEDGEMENT will be provided to the person submitting the grievance within five (5) calendar days of its receipt (*see Attachment 4 - Form B-1*).
2. All grievances will be investigated by the SAGE Program Director (Program Level Review) or his or her designee.
3. Issues requiring clinical judgment and perceived quality of care grievances may be investigated by a Clinical Coordinator or Care Coordination Supervisor from a contract agency not directly involved in the complaint.
4. As necessary, additional medical or other pertinent information will be sought by SAGE staff.
5. When the investigation is completed and information gathered, a Grievance Hearing will be held to review the grievance. The Grievance Hearing is to be scheduled within 10 days of receipt of the grievance. The Grievance Hearing will include the SAGE Program Director or his or her designee, the Care Coordinator and his or her Supervisor (as applicable), and the enrollee/parent(s)/legal guardian/caregiver who may invite a Parent Advocate or other representative(s). In addition, the Grievant may present evidence related to their Appeal and may have access to any records related to the issue being appealed.

The SAGE Program Director can invite others (*specialty providers, legal counsel, etc.*), as appropriate.

6. A Grievance Hearing will be scheduled and the enrollee/parent(s)/legal guardian/caregiver will be notified in writing by a GRIEVANCE HEARING NOTIFICATION (*see Attachment 5 - Form B-2*) at least 7 calendar days in advance of the Hearing and will be informed of the date, time and location of the Hearing. The enrollee/parent(s)/legal guardian/caregiver or the enrollee's representative may attend the Grievance Hearing and present oral and/or written information in support of the grievance.
7. Within 30 calendar days of receipt of the initial grievance, the Grievant will be notified of the decision or action, by a GRIEVANCE HEARING DECISION letter (*see Attachment 6 - Form B-3*), except as noted in D below. A copy of the letter will also be sent to the Care Coordinator (as applicable).
8. The decision will be logged onto the Grievance Record.

**C. Extensions to Resolve Grievances.**

1. Normally, SAGE will resolve a grievance within 30 calendar days of receipt of the written grievance. The time period may be extended an additional 14 calendar days if the Investigator requires more time to complete the investigation. If additional time is required, the Grievant will be notified in writing by a GRIEVANCE REVIEW – 14 DAY EXTENSION (*see Attachment 7 - Form B-4*) that

the grievance has not been resolved, when the resolution is expected and why the additional time is needed.

**D. Urgent Care/Expedited Grievances.**

1. Urgent Care/Expedited Grievances are defined as situations where the denial of services or referral for service could result in illness or injury or where delay in care or treatment would jeopardize the enrollee's health or may result in disability.
2. When this grievance is received, the letter will be date-stamped and logged onto the Grievance Record.
3. If necessary, immediate additional information to resolve the matter will be sought.
4. Within 2 working days of the Initial Grievance, the SAGE Program Director will meet with SAGE relevant staff to review the available information and render a decision. No extensions will be possible. The Grievant will be notified of the Grievance Hearing as soon as possible and may attend to present oral or written information.
5. This decision will be immediately communicated, first verbally, then in writing, to the Grievant.
6. If a request for an Urgent Care/Expedited resolution is denied by SAGE, then the following will occur:
  - a. The request will be transferred to the standard time frame of no longer than 45 days from the date of receipt, with a possible 14 day extension.
  - b. Reasonable efforts must be made to orally inform the Grievant immediately of the denial and a written denial notice must occur within 2 calendar days.

**E. Reduction or Denial of a Covered Service Grievances.**

If the formal written grievance is regarding a reduction or denial of a covered service, and the recipient files it with either SAGE, the County or the Department/State within 10 days of the decision to reduce or deny benefits, the following provisions apply:

1. If the recipient was not receiving the service prior to the reduction or denial, SAGE does not have to provide the benefit while the decision is being appealed.
2. If the recipient was receiving the service prior to the decision, SAGE must continue to provide the same level of service while the decision is in appeal. However, SAGE may require the recipient to receive the service from within the Provider Network, if medically necessary and appropriate care can be provided within the network.

Recipients must grieve to SAGE, the County or the Department within 45 days of a reduction or denial of a service.

**F. Interpreter Services.**

If needed, Interpreter services (for non-English speaking and hearing impaired persons) will be made available through SAGE during the Complaint and Grievance process.

**III. COMPLAINT/GRIEVANCE REVIEW GUIDELINES.**

- A. Any individual assigned to conduct a Complaint/Grievance investigation shall not have had any involvement in the conditions or activities forming the basis of the enrollee's or family's Complaint/Grievance, or have any other substantial interest in those matters arising from his or her relationship to the program or client, other than employment.

- B. Members of any Grievance Review/Appeal Committee may not have been involved in any prior decision-making capacity regarding the basis of the Grievance.

#### **IV. CONFIDENTIAL FILES.**

A confidential file of each grievance, additional information, records of proceedings and decisions will be maintained for 5 years from the date of the last decision that was reached.

#### **V. RECORD CLASSIFICATION/REPORTING.**

- A. Each grievance that is received will be logged onto the GRIEVANCE LOG (*see Attachment 8*), which will be maintained by the SAGE Program Director or his or her designee.
- B. A report on current or past grievance history will be prepared on 15 days notice.

#### **VI. COMPLAINTS AND GRIEVANCES MADE TO PROVIDERS AND ADMINISTRATIVE SERVICES.**

- A. Any complaint that is made or grievance that is sent to a SAGE Provider or Administrative Service will be forwarded immediately to the SAGE Program Director. This provision will be included in any contract or agreement entered into with SAGE.
- B. When a Complaint or Grievance is forwarded by a Provider or Administrative Service to SAGE, the complaint/grievance processes described in II. A. 2. through F. will be followed.

#### **VII. SUMMARY OF TIME FRAMES FOR COMPLAINTS AND GRIEVANCES.**

- A. Complaint or Grievance Filed.
- B. Notification of Receipt of Complaint or Grievance will be sent to Complainant/Grievant within 10 or 5 days, respectively, of SAGE's receipt of Complaint or Grievance.
- C. If Complaint, the final decision will be made and sent to Complainant within 30 days of SAGE's receipt of Complaint.
- D. If Grievance, a Grievance Hearing will be scheduled within 10 days of receipt of the Grievance.
- E. Grievant (*other than Urgent Care/Expedited*) must get 7 days advance notice of the scheduling of the Grievance Hearing.
- F. If Urgent Care/Expedited Grievance, a Grievance Hearing will be held and a decision made within 2 days of SAGE's receipt of Grievance.
- G. Grievant is notified of the decision within 30 days of the receipt of the Grievance unless SAGE notifies the Grievant of the need for a 14 day extension.
- H. All Grievances will be resolved within 45 days of SAGE's receipt of the Grievance.

#### **VIII. FORMS**

- COMPLAINT / SUGGESTION FORM (*see Attachment 1*)
- GRIEVANCE INITIATION (*see Attachment 2*) FORM A
- GRIEVANCE RECORD (*see Attachment 3*) FORM A-1
- GRIEVANCE ACKNOWLEDGEMENT (*see Attachment 4*) FORM B-1

- GRIEVANCE HEARING NOTIFICATION (*see Attachment 5*) FORM B-2
- GRIEVANCE HEARING DECISION (*see Attachment 6*) FORM B-3
- GRIEVANCE REVIEW - 14 DAY EXTENSION (*see Attachment 7*) FORM B-4
- GRIEVANCE LOG (*see Attachment 8*)
- W.S. 25-10-120 – Patient Bill of Rights: Administrative Policies and Procedures (*see Attachment 9*)

Reviewed & Approved by: \_\_\_\_\_

**Carolyn Paseneaux, SAGE Program Director**

## **Attachments**

- COMPLAINT / SUGGESTION FORM (*see Attachment 1*)
- GRIEVANCE INITIATION (*see Attachment 2*) FORM A
- GRIEVANCE RECORD (*see Attachment 3*) FORM A-1
- GRIEVANCE ACKNOWLEDGEMENT (*see Attachment 4*) FORM B-1
- GRIEVANCE HEARING NOTIFICATION (*see Attachment 5*) FORM B-2
- GRIEVANCE HEARING DECISION (*see Attachment 6*) FORM B-3
- GRIEVANCE REVIEW - 14 DAY EXTENSION (*see Attachment 7*) FORM B-4
- GRIEVANCE LOG (*see Attachment 8*)
- W.S. 25-10-120 – Patient Bill of Rights: Administrative Policies and Procedures (*see Attachment 9*)

# SAGE

## COMPLAINT / SUGGESTION FORM

To be completed by any individual who would like to report a complaint or make a suggestion about any aspect of the SAGE program (i.e., Families, Care Coordinators, Providers, etc.)

<b>Name of Person/Agency Filing Complaint or Suggestion</b> _____	
<b>Date</b> _____	
<b>Address</b> _____	<b>City</b> _____ <b>State</b> _____ <b>Zip</b> _____
<b>Phone Number</b> _____ <b>Fax Number</b> _____	
<b>What is your association with SAGE?</b> <input type="checkbox"/> Parent/Caregiver <input type="checkbox"/> Youth <input type="checkbox"/> Provider	
<input type="checkbox"/> Care Coordinator <input type="checkbox"/> Other ( <i>please specify</i> _____)	

<b>Name of Care Coordinator (if applicable)</b> _____	
<b>Name of Care Coordinator's Agency</b> _____	
<b>Phone</b> _____	

<b>Name of associated SAGE Enrollee/Youth</b> _____	
<i>(If relevant to this complaint / suggestion)</i>	
_____	
<b>Name of Care Coordinator's Agency</b> _____ <b>Phone</b> _____	

**If a Complaint**, Name of Person/Agency Complaint is Against \_\_\_\_\_

**Details of Complaint or Your Suggestion:** (*Please be specific including names, dates, etc., when applicable.*)

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*(Please use back of form or attach an additional sheet of paper if more space is needed)*

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**If this is a Complaint, what have you done in an attempt to resolve your concern?** *(Please include who you've spoken to and the result of the conversation. Did the Child & Family Team discuss the concern?)*

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**What would you like to occur as a result of your complaint/suggestion?**

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**Signature of Person Completing Form** \_\_\_\_\_

**Signature of Care Coordination Agency Supervisor, if it is a Care Coordinator that is filling out the Complaint** \_\_\_\_\_

**Send To:** SAGE  
6101 Yellowstone Rd., Ste. 220  
Cheyenne, WY 82002  
Attn: Carolyn Paseneaux, SAGE Program Director

**Or Fax To:** Carolyn Paseneaux  
SAGE Program Director  
at (307) 777-5580

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*(For SAGE Use Only)*

**To be Completed by SAGE Program Director / Investigator**

**Person Assigned to Investigate** \_\_\_\_\_ **Date Assigned** \_\_\_\_\_

**Date Received by Investigator** \_\_\_\_\_

**Please complete Investigation and Return to Carolyn Paseneaux by** \_\_\_\_\_  
(5 working days)

**Results of Investigation:** *(Be specific and include dates, times, names of individuals spoken to, etc.)*

**Investigator's Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

**\*NOTE:** Please call Carolyn Paseneaux at (307) 777-2962, if unable to complete the investigation by the date indicated above.

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**GRIEVANCE INITIATION**

Name of Child/Family\_\_\_\_\_

Care Coordinator/Provider\_\_\_\_\_

Grievance Description (include dates of relevant events, names, addresses & phone numbers of all parties):\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Desired Resolution:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please Check One of the Following:

- ☐ I request a meeting/hearing to discuss and try to resolve above grievance with all interested parties and representatives. SAGE will notify parties listed.
- ☐ I do not request a meeting/hearing at this time. I request a written response to my grievance.
- ☐ I request that the grievance be filed and do not desire any further action.

Submitted By:

\_\_\_\_\_

Signature

Date

Print Name\_\_\_\_\_

Phone\_\_\_\_\_

Address\_\_\_\_\_

\_\_\_\_\_

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Send To:

The Wyoming SAGE Initiative  
6101 Yellowstone Rd., Ste. 220  
Cheyenne, WY 82002  
Attn: Carolyn Paseneaux, SAGE Program Director  
Fax: (307) 777-5580

**GRIEVANCE RECORD**

☐ Medicaid Client  
☐ Non-Medicaid Client

Client Name \_\_\_\_\_ Client DOB \_\_\_\_\_

Grievance Submitted by \_\_\_\_\_

Phone \_\_\_\_\_ Care Coordinator \_\_\_\_\_

Description of Grievance (*verbal dissatisfaction - specify*): \_\_\_\_\_

Date Initiated \_\_\_\_\_ Desired Resolution \_\_\_\_\_

Was Grievant Contacted? ☐ Yes ☐ No If Yes, Date \_\_\_\_\_

Was Grievant Informed of Grievance Procedure? ☐ Yes ☐ No

**GRIEVANCE**

**I. Program Director Review** Date Received: \_\_\_\_\_

**A. Nature of Grievance**

\_\_\_\_\_ 1. Dissatisfaction with Care Coordinator's implementation of Plan of Care (*Describe*):

\_\_\_\_\_ 2. Benefit Denials (*claims or benefits; refusal to refer or provide a requested service*)  
Describe:

\_\_\_\_\_ 3. Dissatisfaction with Service quality, provider, etc.:  
Date of: \_\_\_\_\_

\_\_\_\_\_ 4. Other (*Specify:* ) \_\_\_\_\_

**B. Grievance Hearing Date** (*10 calendar days*): \_\_\_\_\_

\_\_\_\_\_ 1. Members Present:

_____	_____
_____	_____
_____	_____
_____	_____

\_\_\_\_\_ 2. Decision (*check one*): ☐ Approved ☐ Modified ☐ Denied

\_\_\_\_\_ 3. Was additional 14 days needed? (*check one*): ☐ Yes ☐ No

Signature of Person Completing this Form \_\_\_\_\_ Date \_\_\_\_\_

Title \_\_\_\_\_

## **GRIEVANCE ACKNOWLEDGEMENT**

*(Within 5 Days of Receipt)*

[Date]

[Grievant]

[Address]

Re: [Client Name]

[Client DOB]

Dear [Grievant]:

SAGE received your letter on [date] that expressed a Grievance concerning [description of grievance].

Your Grievance is important and will be evaluated by the appropriate SAGE staff member. In order for us to resolve your Grievance, we will need to review all important and available information related to your Grievance. We will schedule a Grievance Hearing with you within 10 days of SAGE's receipt of your Grievance.

At your Grievance Hearing, you have the right to present evidence related to your Appeal and to have access to any records (within the restrictions of the law) related to the issue being appealed.

You may contact the SAGE Program Director at (307) 777-2962 with any questions you may have regarding the Grievance process.

Sincerely,

The Wyoming SAGE Initiative  
SAGE Program Director

cc: Care Coordinator  
Client File

# SAGE

FORM B-2

## **GRIEVANCE HEARING NOTIFICATION**

*(Within 10 Days of Receipt)*

[Date]

[Grievant]

[Address]

Re: [Client Name]  
[Client DOB]

Dear [Grievant]:

Your Grievance will be presented to SAGE on [date].

You have the right to be present at the Grievance Hearing to present additional written or verbal information that is important to your case. The Hearing will take place at [time, date, place of Hearing].

You may contact the SAGE Program Director at (307) 777-2962 with any questions you may have regarding the Grievance Hearing.

Sincerely,

The Wyoming SAGE Initiative  
SAGE Program Director

cc: Care Coordinator  
Client File

## **GRIEVANCE HEARING DECISION**

*(Within 30 Days of Receipt)*

[Date]

[Grievant]

[Address]

Re: [Client Name]

[Client DOB]

Dear [Grievant]:

SAGE's Program Policy Team met on [date] to hear your Grievance. *[You were at the Hearing to present {verbal or written} additional information OR You were not at the Hearing to present verbal or written information].*

After evaluating the available information, the decision was to [describe]. The Wyoming SAGE Initiative Policy Team Hearing is the final Grievance process available to you through SAGE. You may appeal the Team's decision to the Deputy Director of the Mental Health & Substance Abuse Services Division by writing to:

Wyoming Department of Health  
Mental Health & Substance Abuse Services Division  
6101 Yellowstone Rd., Ste. 220  
Cheyenne, WY 82002  
Attn: MHSASD Deputy Director

If SAGE can be of assistance to you in this or other matters, please feel free to call our SAGE Program Director at (307) 777-2962.

Sincerely,

The Wyoming SAGE Initiative  
SAGE Program Director

cc: Care Coordinator  
Client File

## **GRIEVANCE REVIEW - 14 DAY EXTENSION**

*(Within 45 Days of Receipt)*

[Date]

[Grievant]

[Address]

Re: [Client Name]  
[Client DOB]

Dear [Grievant]:

In order for the SAGE Policy Team to resolve your Grievance, which we received on [date], we will require an additional 14 calendar days. This additional time is needed to *[example: to acquire additional medical information from your primary care physician, etc.]*

Following receipt of the additional information, your Grievance will be evaluated in a timely manner. It is expected that a resolution to your Grievance will be reached no later than *[date - 14 calendar days from date of this letter]*. You will be notified of this decision.

You may contact the SAGE Program Director at (307) 777-2692 with any questions you may have.

Sincerely,

The Wyoming SAGE Initiative  
SAGE Program Director

cc: Care Coordinator  
Client File

# SAGE

## GRIEVANCE LOG

[illegible]

## **Chapter I**

### **PATIENT BILL OF RIGHTS: ADMINISTRATIVE POLICIES AND PROCEDURES**

Section 1. Authority. The Board of Charities and Reform, Pursuant to W.S. 25-10-120, is authorized to promulgate rules creating a Patients' Bill of Rights and establishing the procedures by which such rights shall be enforced, limited or denied.

Section 2. Purpose.

(a) These rules are adopted to create a Patients' Bill of Rights and establish the administrative procedures whereby patients' rights shall be enforced, limited or denied.

(i) The creation of a Patients' Bill of Rights acknowledges the importance of recognizing and preserving the rights and dignity of individuals served by the State Hospital while providing the most effective treatment possible, with the goal of advancing each patient's welfare and health.

(ii) The guidelines, procedures and criteria contained in these rules are intended to facilitate the provision of care and services by providing official guidelines to hospital staff and employees, and all others involved in the provision and administration of such care and services.

Section 3. Definitions.

(a) "Head of hospital" means the individual in charge of the State Hospital;

(b) "Hospital" means the Wyoming State Hospital at Evanston, Wyoming;

(c) "Mental Health Professional" means:

(i) A psychiatrist with three years of residency training in psychiatry;

(ii) A psychologist with a doctoral degree from an accredited program;

(iii) A social worker with a master's degree from an accredited program and two years of clinical experience under the supervision of a qualified mental health professional;

(iv) A registered nurse with a graduate degree in psychiatric nursing and two years of clinical experience under the supervision of a qualified mental health professional.

(d) "Minor" or "minor person" means a person who has not attained the age of nineteen.

(e) "State" means the State of Wyoming, and any of its political subdivisions.

(f) "Treatment" means diagnosis, evaluation, medication, therapy or prescribed care including observation, supervision or discharge planning.

Section 4. Patients' Bill of Rights.

(a) A person admitted to the hospital for the purposes of receiving mental health services shall be accorded the following:

(i) The right to appropriate treatment and related services in a setting and under conditions that:

PAT-5.2

(Addendum)

8 pages

(A) Are most supportive of the person's personal liberty; and Patient Bill of Rights Page Administrative Policies and Procedures 29 Jun 90

(B) Restrict such liberty only to the extent necessarily consistent with the person's treatment needs, applicable requirements of law, and applicable judicial orders.

(ii) The right to an individualized, written treatment or service plan developed pursuant to and in compliance with W.S. 25-10-113, including:

(A) The right to treatment based on such plan;

(B) The right to periodic review and reassessment of treatment and related service needs as required by W.S. 25-10-116; and

(C) The right to appropriate revision of the plan. Appropriate revision includes any revision necessary to provide a description of mental health services that may be needed after the person is discharged from the hospital or its program(s).

(iii) The right to ongoing participation, in a manner appropriate to the person's capabilities, in the planning of mental health services to be provided the person. This right of participation includes the right to participate in the development and periodic revision of the plan described in subsection (ii).

(A) In connection with such participation, the right to be provided with a reasonable explanation, in terms and language appropriate to a person's condition and ability to understand, of:

(I) The person's general mental condition and, if the program or the hospital has provided a physical examination, the person's general physical condition.

(II) The objectives of treatment:

(III) The nature, duration, and significance of possible adverse effects of recommended treatments.

(IV) The reasons why a particular treatment is considered appropriate.

(V) Any appropriate and available alternative treatments, services, and types of providers of mental health services, including the right of the patient to seek an opinion of an outside mental health professional (at the patient's own expense).

(iv) The right not to receive a mode or course of treatment established pursuant to the treatment plan, in the absence of the person's informed, voluntary, written consent to such mode or course of treatment, except treatment:

(A) During an emergency situation if such treatment is pursuant to or documented contemporaneously by the written order of a responsible mental health professional; or

(B) As permitted under applicable law in the case of a person committed by a court to the hospital or its treatment program(s).

(v) The right not to participate in experimentation in the absence of the person's informed, voluntary, written consent.

(A) The right to appropriate protections in connection with such participation. Appropriate protections include the right to a reasonable explanation of the procedure to be followed, the benefits to be expected, the relative advantages of alternative treatments, and the potential discomforts and risks.

(B) The right and opportunity to revoke consent to such participation.

(vi) The right to freedom from restraint, seclusion, or other similar interventions which may be administered solely for purposes of discipline, staff convenience, or as a substitute for a less restrictive therapeutic treatment program.

(A) In the event of an emergency situation, in which it is likely that patients could harm themselves or others, and in which less restrictive means of restraint are not feasible, patients may be physically restrained or placed in isolation only on a qualified mental health professional's written order which explains the rationale for such action.

(B) Restraint or seclusion during an emergency situation shall not be ordered by a medical doctor who is also not a qualified mental health professional.

(vii) The right to humane treatment environment that affords a person reasonable protection from harm and appropriate privacy with regard to personal needs.

(A) A humane treatment environment includes the right to be free from any physical, verbal, sexual, financial, or psychological abuse, exploitation, or punishment.

(B) Personal privacy and dignity shall be protected.

(viii) The right to confidentiality of the person's records, in accordance with W.S. 25-10-122.

(ix) The right to access, upon request, to the person's own mental health care records, except the person may be refused access to:

(A) Information in the records provided by a third party under assurance that such information will remain confidential; and

(B) Specific material in the records if the mental health professional responsible for the mental health services concerned has made a determination in writing that access would be detrimental to the person's health. However, such material may be made available to a similarly licensed health professional selected by the person, and the health professional selected may, in the exercise of professional judgment, provide the person with access to any or all parts of the specific material or otherwise disclose the information contained in the material to the person.

(x) The right, in the case of a person admitted on a residential or inpatient care basis:

(A) To converse with others privately;

(B) To have convenient and reasonable access to the telephone and to send and receive uncensored and unopened mail; and

(C) To see visitors during regularly scheduled hours.

(I) However, if a mental health professional treating the person determines that denial of access to a particular person is necessary for treatment purposes, the mental health professional may, for a specific, limited, and reasonable period of time, deny access if the mental health professional has ordered the denial in writing and the order has been incorporated in the treatment plan for the person. A order denying access shall include the reasons for denial.

(II) Any denial of access to a particular person shall be reviewed by a qualified mental health professional at regular intervals not to exceed seven (7) days.

(xi) Right of access to:

(A) A protection service within the hospital through the Human Rights Committee;

(B) A protection system established by the State of Wyoming through the state patient advocate;

(C) The system established under the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. SS 10801 et seq.), to protect and advocate the rights of mentally ill individuals. This right of access includes opportunities and facilities for private communication.

(xii) The right to be informed promptly at the time of admission and periodically thereafter, of the right described in this section.

(A) Such information shall be in language and terms appropriate to the person's condition and ability to understand.

(B) Such information shall include patient's right under the Fair Labor Standards Act, 42 U.S.C. SS 201 et seq., which includes:

(I) The right to refuse to perform services for the hospital;

(II) The right to have the need or desire to work documented in the patient's individual treatment plan in the event the patient chooses to perform services;

(III) The individual treatment plan shall specify the nature of the services and whether the services are voluntary or performed for compensation;

(IV) The agreement to perform services may be terminated at any time.

(xiii) The right to assert grievances with respect to infringement of the rights described in these rules, including the right to have such grievances considered in a fair, timely and impartial grievance procedure provided for by the hospital, in accordance with Section 5(a)(iii) of these rules.

(xiv) The right to exercise the rights described in this section without reprisal, including reprisal in the form of denial of any appropriate, available treatment.

(xv) The right to referral, as appropriate, to other providers of mental health services upon discharge.

(b) The rights described in these rules shall be in addition to and not in derogation of any other statutory or constitutional rights.

(i) The right to confidentiality of and access to records described in provisions designated (a)(viii) and (a)(ix) shall remain applicable to records pertaining to a person

after the person's discharge from the hospital or program(s), with the following exception: Records and reports which are made under the Hospitalization of Mentally Ill Persons Act (W.S. 25-10-101 through 25-10-404), and directly or indirectly identify a patient, former patient, or person for whom an application for hospitalization has been filed, may be provided without the person's consent, if the records and reports as provided:

(A) By and between a mental health center, the State Hospital and hospitals designated under W.S. 25-10-104; and

(B) Only for the purpose of facilitating referral treatment, admission, readmission or transfer of the patient under the Hospitalization of Mentally Ill Persons Act.

(c) No otherwise eligible person will be denied admission to the hospital or its program(s) for mental health services as a reprisal for the exercise of the rights described in these rules.

(i) Nothing in these rules shall:

(A) Obligate an individual mental health or health professional to administer treatment contrary to the professional's clinical judgement;

(B) Prevent the hospital or any of its programs from discharging any person for whom the provision of appropriate treatment, consistent with the clinical judgement of the mental health professional primarily responsible for the person's treatment, is or has become impossible as a result of the persons' refusal to consent to the treatment.

(C) Require the hospital or any of its programs to admit any person who, while admitted on prior occasions to such program or facility, has repeatedly frustrated the purposes of admission by withholding consent to proposed treatment; or

(D) Obligate the hospital or any of its programs to provide treatment services to any person who is admitted to such program or facility solely for diagnostic or evaluative purposes.

(ii) In order to assist a person admitted to a program or facility in the exercise or protection of the person's rights, the person's attorney or legal representative shall have reasonable access to:

(A) The person;

(B) The areas of the hospital or its program(s) where such person has received treatment, resided, or had access; and

(C) Pursuant to the written authorization of the person, the records and information pertaining to such person's diagnosis, treatment, and related services described in paragraph (a)(ix).

(iii) The hospital and each of its programs shall post a notice listing and describing the rights described in this section of all persons admitted to the hospital or any of its program.

(A) The notice shall be in language and terms appropriate to the ability of the persons to whom the notice is addressed to understand.

(B) Each notice should conform to the format and content for such notices, and shall be posted in appropriate locations.

(d) When a person is adjudicated by a court of competent jurisdiction as being incompetent to exercise the rights or provide the authorization described in paragraphs (i), (ii) or (iii) of this subsection, such rights may be exercised or such authorization provided by the individual appointed by the court as the person's guardian for the purpose of:

- (i) Exercising the right to consent to treatment or experimentation described in the provisions designated as (a)(iv) and (a)(v) of this section;
- (ii) Exercising the right to confidentiality of or access to records described in provisions designated as (a)(viii) or (a)(ix) of this section;
- (iii) Providing authorization as described in subparagraph (c)(ii)(C) of this section; or
- (iv) Avoiding conflicts of interest.

(e) The following shall apply with respect to minors:

(i) A minor's parent or legal guardian may, on behalf of the minor:

(A) Exercise the right to consent to treatment to experimentation described in the provisions designated as (a)(iv) and (a)(v) of this section;

(B) Exercise the right to confidentiality of or access to records described in provisions designated as (a)(viii) or (a)(ix) of this section; or

(C) Provide authorization as described in the provision designated as (c)(ii)(C) of this section.

(ii) Notwithstanding provision (e)(i) above, a minor, and not the minor's parent or legal guardian, may exercise the rights contained in these rules and provide any necessary authorization to exercise the rights, in the following cases:

(A) The minor's parent or legal guardian cannot with reasonable diligence be located and the minor's need for treatment is sufficiently urgent to require immediate attention;

(B) The minor was living apart from the parent or guardian and managing his own affairs regardless of his source of income, at the time of admission or commitment;

(C) The minor is or was legally married;

(D) The minor is in the active military service of the United States;

(E) The minor is emancipated under W.S. 14-1-201 through 14-1-206.

## Section 5. Administrative Policies and Procedures.

(a) In addition to any policies and procedures required by the Patients' Bill of Rights contained in section 4 of these rules, the hospital shall establish appropriate policies and procedures as required to implement and enforce these rules. Appropriate policies and procedures required to implement and enforce these rules include but are not limited to the following:

(i) Affirm and protect the patient's right stated under Section 4, to include:

(A) Ensure that all allegations of mistreatment, abuse or neglect, as well as any injuries to patients, are reported immediately to the administrator or to other officials in accordance with State law and through established hospital standard reporting procedures;

(B) Ensure that action is taken as necessary to prevent the potential of further abuse while an investigation is in process;

(C) Provide for an immediate and thorough investigation of all allegations by trained, experienced personnel delegated with all necessary authority; results of all

investigations must be reported to the administrator or designated representative, or to other officials in accordance with state law, within five working days of the incident;

(D) Establish reasonable and appropriate corrective actions, including education, training and/or punishment for any hospital-affiliated individual who has been found to be responsible for acts of mistreatment, abuse or neglect of patients;

(E) Prohibit the employment of individuals with a conviction or substantial documentation of child or patient abuse, neglect or mistreatment;

(F) Provide training and informational materials on patients' rights and on the prevention of abuse/neglect/mistreatment for administrators, mental health professionals and direct care staff and volunteers; each new staff member should be presented this information at the time of employment and training should be given for each of the groups at least annually.

(ii) The hospital shall designate and staff an administrative function charged with the following responsibilities:

(A) An assessment and report, to be submitted to the head of the hospital and the hospital's governing body on at least an annual basis, of the hospital's compliance or lack thereof with the requirements in these rules, and any applicable statutory, constitutional and accreditation standards.

(B) Establishment and implementation of procedure(s) which provide every person admitted to the hospital or any of its programs with adequate notice of the rights contained in these rules.

(C) To act in the capacity of liaison for the hospital and its programs to the services and systems enumerated in provision 4(a)(xiii) of these rules.

(iii) The hospital shall develop and implement an administrative procedure for the review of patient grievances with respect to the protection and enforcement of patients' rights, in compliance with provision 4(a)(xiii) of the Patients' Bill of Rights. This procedure shall include, but is not limited to the following elements:

## PATIENT GRIEVANCE PROCEDURE

A formal procedure to assist patient's with problems or complaints will be provided to the patient.

1. The complaint or grievance may be verbal or written and may be registered with the hospital designated patient representative or with the state designated patient advocate or with any external advocate the patient chooses.

2. The complaint may be registered at any time.

3. The names, addresses and telephone numbers of the hospital patient representative, the state patient advocate, and external advocacy organizations will be posted and/or otherwise made available to all patients.

4. Access to external advocacy organizations will include contact information about:

a) Protection and Advocacy, Inc.;

b) Private attorneys;

c) Legal services;

d) Other mental health, legal and family consumer organizations; and

e) The Chairman of the Wyoming State Mental Health Grievance Committee.

5. If the patient chooses to file a formal grievance with the hospital, patient representative and/or with the state patient advocate:

a) A response to the initial complaint will be made within twenty-four (24) hours, exclusive of weekends and holidays.

b) The state patient advocate, the Human Rights Committee of the Wyoming State Hospital, and the head of the Wyoming State Hospital will work to resolve the grievance with the patient.

c) If unresolved, the state patient advocate will present the patient's grievance to the Wyoming State Mental Health Grievance Committee for resolution.